

Office of Elementary and Secondary Education Webcast

“Key Title I Fiscal Issues: Supplement, Not Supplant”

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In this segment, we’re going to talk about that wonderful subject, “supplement, not supplant.” We get more questions on this, than probably anything else that we get questions on. And one of the reasons that it’s so hard to deal with is that it’s very case specific. You have to have all the details and circumstances in an individual situation to make a call about whether “supplement, or not supplant” applies.

Kay, would you like to start out by talking a little bit about what the basic requirement is please?

Kay RIGLING, Title I Program Attorney:

Sure. The “supplement, not supplant” requirement ensures that children participating in Title I programs receive their fair share of services from state and local funds. And, let’s assume, for the moment, that we’re talking about just targeted assistance schools, because it works differently in a school-wide program.

Title I funds may not be used to provide services to Title I students that, in the absence of the Title I funds, a district would provide for Title I students with state or local funds.

Sounds like a very simple requirement, but, you're absolutely right, it's very fact specific. And, you really can't talk about it well in general terms because it is so dependent upon the facts of the specific situation.

Susan WILHELM:

Now, there are three flags in "supplement, not supplant," where there's a presumption of supplanting, unless some other information is provided. Kim, would you talk about the first of those flags?

Kim O'NEAL, Program Analyst, Monitoring and Audit Group, Title I Program Office:

Well, one of those flags are required mandates from state, local, or federal entities. We see in the field, mostly, that type of supplanting. And, like Kay mentioned, it isn't something that you can just interview your interviewee about. What we have to do is look at inventory records, budget records, personnel records, to come to a conclusion that supplanting may be happening.

For example, we have seen in the past where there has been a state mandated preschool program. The preschool program is being funded by the state in non-Title I schools and, because of their needs assessment, and needing a pre-school program and a Title I program, they decided just to use Title I for their pre-school program. That is a supplanting issue, and one that comes about by having a thorough interview with the district and the state.

Susan WILHELM:

So, for example, another example might be, services to limited English-proficient students. There is a federal requirement, actually it's a Supreme Court requirement, actually, that districts provide services to limited English-proficient students, so you couldn't go into a Title I school, in a targeted assistance school and say, 'well, that's how we're going to provide our services to our limited English-proficient students, we're just going to use Title I.' Now, am I right though, that you could use Title I on top of what's being provided?

Kim O'NEAL:

Yes.

Susan WILHELM:

One other thing I want to flag about state laws is...now there are some examples where the statute specifically says there are activities that are exempt from “supplement, not supplant.” And isn’t assessment development one of those?

Kay RIGLING:

Yes. The statute, it doesn’t expressly say that it’s exempt from “supplement, not supplant.” But the statute specifically authorizes that Title I funds may be used to develop the state standards and assessments. And therefore, a state may use state funds to do that, and not run afoul of the “supplement, not supplant” requirement because there is that specific authority.

Susan WILHELM:

That was what I really want to call attention to. There’s the general rule, and then you have to go back to the statute to look for specific authorities that might make it apply somewhat differently. Sandy, now there’s two other tests where, on the face there is a “supplement, not supplant” issue.

Sandy BROWN:

Right. Another situation, and again you have to look at it on a case-by-case basis, is if Title I provides services that the district provided in a prior year with non-federal funds. So, for example, if a teacher was paid last year from general funds, and then all of a sudden they become a Title I Teacher this year, paid with federal funds, that could be supplanting.

Now, it’s difficult to always to say, at first blush, it appears to be supplanting, but when you look at the detail, that may not be the case. So, again, it’s very case-specific. We would have to look at that situation in a lot more detail. For example, maybe in the year that you’re currently in, a school district decides to hire, as a Title One teacher, a teacher who was paid out of local funds last year.

And that may be possible. That may be okay, as long as that teacher who was hired is being replaced by another teacher that was paid from local funds. So, that’s not really a replacement. It doesn’t limit who you can hire. It doesn’t say you can’t hire non-Title I teachers to be Title I teachers this year.

Kay RIGLING:

An example of that might be, that a district had a district-funded reading program where it put a reading specialist in each one of its schools last year. It has declining resources, and it’s determined that that is a program that it no longer can afford. So, the school board meets, and decides that it’s going to eliminate its locally funded reading program, in all of its schools. Title I funds then, could be used without violating the supplanting requirement, to put reading teachers in the Title I schools.

One of the things that's really important about supplanting, is to document, before you do it, the decisions that you're making about the use of state and local funds. Supplanting is very hard to document after the fact.

Sandy BROWN:

Another thing to keep in mind, and this kind of ties in to maintenance of effort, if a situation like that happens, if the school board votes not to use local funds for the reading teacher, then the school system is going have to very careful to make sure that, in their local funding, an expenditure set, that they are in fact maintaining 90% of the prior year's amount. So, there's a little bit of a limitation to that situation. That's not to say it can't be done. But, the school district has to be real careful that they don't run afoul of maintenance of effort issues down the road.

Another issue when supplanting is presumed to occur, and this actually ties into the first point that Kim was making, is that Title I supports services for Title I children that the district provides from local funds, for other children.

Again, for example, if you have kindergarten, or something like that, and you have Title I that pays for...you pay for morning kindergarten for some kids with local funds, and then with Title I funds and the Title I Schools, you pay for morning kindergarten for those kids in that Title I school, that's a classic supplement, not supplant issue.

Now, one way you could possibly avoid supplanting issues, is that you make sure that the Title I kids, that the kids in Title I school, in fact, also, have an equitable chance, or equitable shot, at receiving those local services for kindergarten, and then possibly using the Title I funds to provide afternoon kindergarten for those children. So, in a sense, those Title I kids would be getting the morning services from state and local funds, and then the afternoon services from Title I funds.

Susan WILHELM:

What about in a schoolwide program? It works differently in a schoolwide than in a targeted assistance.

Sandy BROWN:

Well, in a schoolwide issue, in a sense the Title I money, most federal funds, basically lose their identity once they go inside the schoolhouse door because, they're supposed to be used to upgrade the entire educational offering the curriculum for all students.

That being said, there is still in the statute a "supplement, not supplant" requirement which basically says that the school district cannot short, if you will, that Title I school in the distribution of state and local resources because, it's operating a Title I school-wide program. It's almost like a comparability situation. But, the statute calls it supplanting.

And they have to make sure that federal funds, when they go into the school, are in addition, on top of, what that school – operating a schoolwide program – would normally receive.

Kim O’NEAL:

Absolutely, Sandy. Because, when we go out in the field, the one thing that we must ensure to do, is to make sure that state and local funds are being used without consideration of Title I funds in a schoolwide program.

Susan WILHELM:

I think, what this conversation illustrates, is how complicated “supplement, not supplant” is. And how many different variables have to be taken into consideration. Kay, if you’ve got a question at the local level, where is the best place to start asking about whether or not you’ve got a problem?

Kay RIGLING:

Well, I think you should always go to your state, and ask your state whether they think that what you’re doing violates the “supplement, not supplant” requirement. And, I think often times then, the state coordinators might call us, if they’re not sure. But, definitely, go to your state first.

Sandy BROWN:

There’s one other nuance, we need to pick up, I think, on supplement, not supplant, and we suggested this when we discussed comparability, and that’s the exclusion, programs that are excluded from comparability and supplement, not supplant. A school district may exclude supplemental state and local funds expended in any school, for programs that are Title I-like in nature. In other words, meet the intent and purposes of Title I. Kay, you might want to go over how we define what is, meets the intent and purposes.

Kay RIGLING:

And, we did this in the regulation, so you won’t find this in the statute. But, in the regulations, we looked at both Title-I-like schoolwide programs, and Title I-like Targeted Assistance programs.

And, for a schoolwide program, we have four factors that the program must meet. One, it must be in a school that is at least 40% poor. Two, the state and local funds have to be used to promote schoolwide reform, and upgrade the entire instructional program in the school. Three, the focus has to be on students that are most at risk of meeting the state standards. And four, the program must use the state assessment system to evaluate its effectiveness.

Kim O'NEAL:

Okay, and a question on that, for Title I-like programs, those four points that you just mentioned, they must be stated, all four must be included in their legislation in order for us to consider it a Title I-like program, or can they just have two...?

Kay RIGLING:

Well, it doesn't have to be legislation.

Kim O'NEAL:

Okay.

Kay RIGLING:

I think all four requirements must be met, but it doesn't have to necessarily be a program that's legislated. Probably the most vivid example of this kind of exclusion from "supplement, not supplant" and comparability is a district where the district has a school reform strategy that it is implementing in every single school. And it has supplemental funds, either from the local level, or the state level, that it is spending for particular activities.

For example, the local level may have supplemental funds that it is spending to put a literacy coordinator in every school as part of its overall school reform strategy. What this requirement would allow that district to do, is to use Title I funds for the literacy coordinator in the Title I schools, and non-Title I funds in the non-Title I schools.

But, what's really important is, those literacy coordinators are provided out of supplemental funds, and they are part of a genuine districtwide whole school reform strategy. They're not just an isolated activity where the district decides that, 'gee it would be nice to have a literacy coordinator in every school, I think I'll pay for it out of Title I funds in my Title I schools, and out of non-Title I funds in my non-Title I schools.'

That's the classic third example of supplanting that Sandy talked about. But, we're talking here about a district that has a districtwide whole school reform strategy.

Susan WILHELM:

Well, if it's a districtwide whole school reform strategy, doesn't the 40% poverty indicator – does it count in that situation?

Kay RIGLING:

No, it does. It does.

Susan WILHELM:

It's not just that it's a districtwide reform strategy, but it's got to be targeted to schools with poverty rates with 40% and higher.

Kay RIGLING:

Right. That's absolutely right.

Susan WILHELM:

And that's the reason it can be a whole school reform strategy, because in schools that are 40% and higher, you can run a schoolwide program where Title I is used to upgrade the curriculum for all students.

Kay RIGLING:

That's right. So, what we're talking about here, are probably very high poverty school districts, where all of the schools would be above 40% poverty. If they have schools that are below 40% poverty, then the regular supplement, not supplant requirements apply.

Susan WILHELM:

What if somebody says, 'alright, my whole school reform strategy is that I want pre-school in every one of programs.' And there's no targeting of any specific kids, you got a mix of targeted assistance, and school-wide schools in the district. It seems to me, that wouldn't meet the test, but am I right?

Kay RIGLING:

And you're talking about a school with 40%... all schools have 40% or more...

Susan WILHELM:

No. I'm talking about a district that has a mix of targeted assistance, and schoolwide schools. They decide that their reform strategy is going to be pre-school. And they want pre-school in all their schools, and they want to pay for pre-school with state and local funds in the non-Title I schools, and they want to pay for the pre-school in the Title I schools, both the targeted assistance, and the schoolwides, with Title I funds.

Kay RIGLING:

I would think that just a pre-school program would not be a whole school reform strategy. It may be very important for raising the achievement of children. But, that does not seem to qualify for what the regulations are considering to be a whole school reform design.

You can also implement the exclusion in a program that is like a targeted assistance program. And the regulations specify three criteria that such a non-Title I program would have to meet.

First of all, the program would have to serve, only students who are failing, or are most at risk of failing to meet the state standards. Second, the money used to provide the services to the program, must be supplemental state or local funds. And third, the program must be evaluated using the state's assessment system.

If those three criteria are met, a district may exclude supplemental state or local funds expended for that program in a non-Title I school from its comparability and its "supplement, not supplant" determination.

A classic example, perhaps, of a program like this might be Reading Recovery, where it's focused on only students who are low achieving in reading. And, it's supplemental to what the district would otherwise provide those students. And, it's assessed with the state assessment system. You might be able to use local funds for a Reading Recovery program in non-Title I schools, and Title I funds for that same program in a Title I school.

Susan WILHELM:

But, a district could make that determination. But, if the state were to say it wanted a program like Reading Recovery in all schools, at that point, the situation would be different, right?

Kay RIGLING:

Right. Because, then it would be basically required by state law. And then, it's the presumption is that the district would do that in the absence of Title I funds because few districts want to be out of compliance with a law.

Susan WILHELM:

I ask the question, in part, just to re-illustrate the fact so much of these "supplement, not supplant" decisions are very case specific, and we have to look at basically the district level, you have to look at the state requirements, you have to look at whether it's a Targeted Assistance school, whether it's a schoolwide school – there's just a whole lot of factors.

Sandy BROWN:

Right. I mean, in one case, it was fine. Because, it was a district initiative. But, when it became a state requirement doing the same thing that was allowed in one instance then became you ran into problems with "supplement, not supplant."

Kay RIGLING:

That's exactly right. I think if districts keep in mind one basic principle for all of these fiscal requirements, it's that Title I schools need to be treated fairly. And, if you think about it in that regard, you'll be okay. It's when you take the Title I funds into consideration in making decisions on how to spend your state and local funds that you tend to get into trouble.